

## REMARKS

Claims 1-121 remain pending in the instant application. All claims presently stand rejected. Claims 1, 35, 59, 80, 90, 98, 106, and 113 are amended herein. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

### *Information Disclosure Statement*

In the Office Action mailed 9/08/05 the Examiner indicated that the IDS submitted by Applicants on 2/26/02 mentioned a third page but did not include the third page. Accordingly, the IDS submitted herewith includes the references listed on that missing third page.

### *Claim Rejections – 35 U.S.C. § 102*

Claims 1-6, 9-10, 12, 14, 18, 21-25, 31, 34-40, 43, 44, 46, 48, 52, 55-65, 67, 69, 73, stand rejected under 35 U.S.C. § 102(e) as being anticipated by Payton (US .

A claim is anticipated only if each and every element of the claim is found in a single reference. M.P.E.P § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the claim.” M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 (Fed. Cir. 1989)).

Amended independent claim 1 now recites, in pertinent part,

receiving broadcast communications including content descriptors ... the content descriptors including descriptions of a plurality of corresponding content pieces **being considered for future broadcast**;

performing a ranking algorithm to rank at least a portion of the plurality of content pieces **based at least in part on the content descriptors** to generate a ranking feedback indicating desirability of the portion of the plurality of content pieces; and

Applicants respectfully submit that Payton fails to disclose receiving content descriptors that describe content pieces being considered for future broadcast and then ranking the content pieces based at least in part on the content descriptors received. In other words, Payton fails to disclose a technique that transmits content descriptors describing content that is being considered for **future broadcast**.

In contrast, Payton discloses a technique that enables a subscriber (e.g., viewer) to rate programs that he or she has **previously requested**. This information is used to generate a recommended items list 44 for the subscriber. A predictive filter 54 references the recommended items list to download recommended programs to a local storage for virtual on-demand consumption by the subscriber (see, *Payton*, col. 5, lines 6-20 and col. 6, lines 1-5). To be sure, Payton states (see FIG 2 of Payton for reference),

A subscriber data base 38 stores a subscriber profile 40 for each of the subscribers. The subscriber profile 40 preferably includes a rating vector (shown in FIG. 6) in which the subscriber has rated each of the items he or she has **previously requested**.

*Payton*, col. 5, lines 6-10 (emphasis added). Therefore, Payton discloses a technique that uses feedback from **previously broadcast programs** to predict what a subscriber may desire to view in the future and download recommended programs to a local storage for virtual on-demand viewing. **Payton discloses feedback generated based on previous programs—not descriptions of content being considered for future broadcast.** However, Payton simply does not disclose or teach broadcasting content descriptors that describe content being considered for future broadcast.

Consequently, Payton fails to disclose each and every element of claim 1, as required under M.P.E.P. § 2131. Independent claims 35, 59, 80, 90, 98, 106, and 113 now include similar novel elements as independent claim 1. For example, independent claim 35 now recites, “a plurality of content descriptors that describe a plurality of corresponding content pieces **available for future broadcast**” and independent claim 59 now recites, “the content descriptors including descriptions of a plurality of corresponding content pieces for **possible future broadcast**[.]” Accordingly, Applicants request that the instant §102 rejections of claims 1, 35, 59, 80, 90, 98, 106, and 113 be withdrawn.

#### *Claim Rejections – 35 U.S.C. § 103*

Various other dependent claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Payton in view of Kawaguchi (US 6,271,893), Urakoshi et al (US 6,067,564), Inoue (US 6,185,360), Herz (US 5,754,938), McCoy et al. (US 6,526,575), or Ismail et al (US 6,6614,987).

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

The dependent claims are patentable over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 102 and § 103 rejections of the dependent claims be withdrawn.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

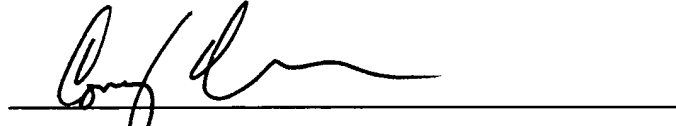
### CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

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